AF/IF4
PATENT \$

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

CHONG

Application No: 10/800,095

Filed: March 12, 2004

For: Component Array Bracket Assembly

Docket No: SUNMP238

Group Art Unit: 2835

Examiner: Broussard, Corey M.

Date: January 29, 2007

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 29, 2007.

Signed: _____

Kenneth D. Wright

**TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION -- 37 CFR 192)****Mail Stop: Appeal Brief-Patents**

Commissioner for Patents

Alexandria, VA 22313-1450

Sir:

This Appeal Brief is in furtherance of the Notice of Appeal filed in this case on November 27, 2006. This Appeal Brief is submitted within the two month time period extending from the Notice of Appeal to January 29, 2007. Please note that January 27, 2007, was a Saturday.

This application is on behalf of:

☐ Small Entity ☒ Large Entity

Pursuant to 37 CFR 1.17(f), the fee for filing the Appeal Brief is:

☐ \$250.00 (Small Entity) ☒ \$500.00 (Large Entity)

☐ Appeal Brief Fee has already been paid. Prosecution was re-opened by Examiner in response to the Appeal Brief, filed _____.

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply:

☐ Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

<u>Months</u>	<u>Large Entity</u>	<u>Small Entity</u>
<input type="checkbox"/> one	\$120.00	\$60.00
<input type="checkbox"/> two	\$450.00	\$225.00
<input type="checkbox"/> three	\$1,020.00	\$510.00
<input type="checkbox"/> four	\$1,590.00	\$795.00

If an additional extension of time is required, please consider this a petition therefor.

☐ An extension for __ months has already been secured and the fee paid therefore of \$ is deducted from the total fee due for the total months of extension now requested.

☒ Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Total Fees Due:

Appeal Brief Fee	\$500.00
Extension Fee (if any)	\$
Total Fee Due	<u>\$500.00</u>

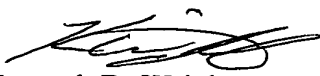
☒ Enclosed is Check No. 17718 in the amount of \$500.00.

☐ The Commissioner is authorized to charge the total fees due of \$____ to Deposit Account No. 50-0850, (Order No. ____).

☒ The Commissioner is authorized to charge any additional required fees or credit any overpayment to Deposit Account No. 50-0850, (Order No. SUNMP238).

One additional copy of this transmittal is enclosed for fee processing.

Respectfully submitted,
MARTINE PENILLA & GENCARELLA, LLP


Kenneth D. Wright
Reg. No. 53,795

710 Lakeway Drive, Suite 200
Sunnyvale, CA 94085
(408) 749-6900
Customer No. 32,291



Application No. 10/800,095

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

EX PARTE CHONG

Application for Patent

Filed March 12, 2004

Application No. 10/800,095

FOR:

Component Array Bracket Assembly

APPEAL BRIEF

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 29, 2007.

Signed: _____


Kenneth D. Wright

**MARTINE PENILLA & GENCARELLA, LLP
Attorneys for Applicant**

02/01/2007 MWOLDGE1 00000069 10800095

01 FC:1402

500.00 0P

TABLE OF CONTENTS

	<u>Page No.</u>
I. REAL PARTY IN INTEREST	3
II. RELATED APPEALS AND INTERFERENCES	3
III. STATUS OF THE CLAIMS	3
IV. STATUS OF THE AMENDMENTS	3
V. SUMMARY OF CLAIMED SUBJECT MATTER	3
VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL	6
VII. ARGUMENTS	6
A. Rejection of claim 10 under 35 U.S.C. 112, first paragraph	6
B. Rejections of claims 1-10, 12-13, and 15-16 under 35 U.S.C. 102(e)	11
C. Rejections of claims 11 and 14 under 35 U.S.C. 103(a)	16
VIII. CLAIMS APPENDIX	19
IX. EVIDENCE APPENDIX	23
X. RELATED PROCEEDINGS APPENDIX	23

I. REAL PARTY IN INTEREST

The real party in interest is Sun Microsystems, Inc., the assignee of the present application.

II. RELATED APPEALS AND INTERFERENCES

The Applicant is not aware of any related appeals or interferences.

III. STATUS OF THE CLAIMS

A total of 20 claims were presented during prosecution of this application. Claims 17-20 were cancelled. The Applicant appeals rejected claims 1-16.

IV. STATUS OF THE AMENDMENTS

Claims 1 and 10 were amended prior to the Final Office Action of June 28, 2006, from which this Appeal is made. A response to the Final Office Action of June 28, 2006, was filed on August 22, 2006, and did not include further claim amendments. The Examiner did not consider the Applicant's arguments in the response of August 22, 2006, to be persuasive. A first Advisory Action was mailed September 25, 2006. A second Advisory Action was mailed November 1, 2006, to modify the first Advisory Action by withdrawing the objections to the drawings.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 recites one embodiment of the present invention directed to a component positioning and securing bracket assembly present in an array of a plurality of components. ([0034], p. 10, lines 14-18) The assembly includes a front rail, a rear rail, and a bottom rail which respectively define a front boundary, a rear boundary, and a bottom boundary of the assembly. ([0035], p. 11, lines 10-11; [0036], p. 11, lines 18-22) The front

rail, the rear rail, and the bottom rail define a structure into which the component is to be received. ([0035], p. 11, lines 10-11) A top plate is included for attachment to the component. ([0035], p. 11, lines 6-8) The top plate includes a keyed tail portion and a nose portion. ([0035], p. 11, lines 6-8) A tail receptacle for receiving the keyed tail portion of the top plate is configured to the rear rail. ([0035], p. 11, lines 8-10) Also, the front rail includes a nose receptacle portion for receiving the nose portion of the top plate. ([0035], p. 11, lines 8-10) The assembly also includes a component connector defined to connect to a port of the component. ([0035], p. 11, lines 11-13) A lever is included to provide leveraged motion which secures the component in the component positioning and securing bracket. ([0054], p. 19, lines 9-12) The leveraged motion causes the keyed tail portion to be received into the tail receptacle so as to positively hold and rigidly support the component in place. ([0039], p. 12, lines 24-26; [0040], p. 13, lines 7-11) Additionally, the leveraged motion effects a connection of the port of the component and the component connector. ([0040], p. 13, lines 3-5)

Independent claim 10 recites one embodiment of the present invention directed to a disk drive positioning and securing bracket assembly in an array of a plurality of disk drive components. ([0045], p. 15, lines 11-14) The assembly includes a device surrounding component for holding a disk drive to be located within the array of the plurality of disk drive components. ([0046], p. 15, line 26 through p. 16, line 3) The assembly also includes a forward mounting post attached to an array chassis and a rear mounting post attached to the array chassis. ([0046], p. 15, line 26 through p. 16, line 7; [0047], p. 16, lines 12-14) The device surrounding component for holding the disk drive includes a device positioning key and forward tabs. ([0046], p. 16, lines 1-3) The device positioning key and forward tabs are configured to be received in the rear mounting post and in the forward mounting post, respectively, such that the device surrounding component having the disk

drive therein is received in the rear mounting post and in the forward mounting post in a first direction of motion. ([0046], p. 16, lines 3-5; [0048], p. 16, lines 20-26) A lever is positioned on a side surface of the disk drive. ([0054], p. 19, lines 9-12) The lever provides leveraged movement to the disk drive in a second direction of motion so as to position the device positioning key and the forward tabs to secure the disk drive. ([0050], p. 17, lines 17-24; [0051], p. 17, line 25 through p. 18, line 6)

Please note that the last two lines of claim 10 recite "positioning the device positioning key into the forward tabs to secure the disk drive." In this recitation, the word "into" is a typographical error. The word "into" should be the word "and." As this typographical error is not substantive with regard to the rejections on appeal, the present appeal should be unaffected. Upon issuance of the present application, an amendment will be filed under 37 CFR 1.312 to change the word "into" to the word "and."

It should be appreciated that the above discussion represents only a summary of the present invention. A more in-depth discussion of the present invention is provided in the Detailed Description section of the application.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claim 10 was rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claims 1-10, 12-13, and 15-16 were rejected under 35 U.S.C. 102(e) as being anticipated by Roesner (U.S. Patent Application Publication No. 2005/0047075).

Claims 11 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Roesner in view of Aoki et al. ("Aoki" hereafter) (U.S. Patent No. 6,288,911).

VII. ARGUMENTS

A. Rejection of claim 10 under 35 U.S.C. 112, first paragraph

Claim 10 was rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The following clear errors in the Examiner's rejection are noted.

The Examiner has asserted that there is no support in the specification for a device having both a device surrounding component and a lever positioned on a side surface of the a disk drive. The Examiner has stated that the term "surrounding" as used to characterize the device surrounding component of claim 10 is interpreted to mean "enclose on all sides." The Examiner has asserted that the lever of claim 10 cannot be "positioned on a side surface of the disk drive" if the device surrounding component is surrounding said disk drive. Based on the foregoing, the Examiner has asserted that the Applicant did not have possession of the claimed invention at the time of filing.

The Examiner's interpretation of the "device surrounding component" as enclosing the disk drive on all sides is not at all consistent with the description of the device surrounding component in the specification. The Applicant is aware that limitations cannot

be read into the claims from the specification. However, the Applicant is also aware that during examination, the Examiner must give claims their broadest reasonable interpretation in light of the specification. This means that the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification.

MPEP 2111.01(I)

As described below, the Examiner's plain meaning interpretation of the "device surrounding component" as enclosing the disk drive on all sides is inconsistent with the specification. For ease of discussion, Figure 3A is shown below. Figure 3A shows the hard drive 130 within the mounting and positioning bracket assembly 150, in accordance with one embodiment of the invention.

Paragraph [0046] of the specification states the following:

"Bracket assembly 150 component parts include a device surrounding component 151, a rear mounting post 152, and a forward mounting post 153. Device surrounding component 151 includes a top rail 151d, a rear rail 151a having a "T-bar" device positioning key, a bottom rail 151e, and forward tabs 151f."

Based at least on the description of the device surrounding component 151 in paragraph [0046] and Figure 3A, it should be understood that with regard to a side view of the hard drive 130, the device surrounding component 151 includes parts present at the top, rear, bottom, and front of the hard drive 130. It should be further understood that the device surrounding component 151 does not include parts present at the sides of the hard drive 130.

Additionally, paragraph [0058] of the specification states the following:

"In another embodiment of the invention (not illustrated), a bracket includes a device-surrounding cage. Similar to the embodiment illustrated in Figures 3A-3D, the device-surrounding cage functions similar to the device surrounding component 151 (see

Figure 3A), but would encase all sides of the exemplary hard drive 130. A device-surrounding cage may include the pivot pin 202 (Figures 4A, 4B) attachment, thereby eliminating an attachment directly to the exemplary hard drive 130."

As indicated above, the specification directly contrasts the "device surrounding component" with the "device-surrounding cage." The "device-surrounding cage" is defined to encase the hard drive 130 on all sides, whereas the "device surrounding component" 151 is clearly characterized as not encasing the hard drive 130 on all sides. Therefore, the Applicant submits that the Examiner's incorrect interpretation of the "device surrounding component" of claim 10, as enclosing the hard drive on all sides, is directly opposed to the definition of the device surrounding component provided in the specification. Moreover, the Examiner seems to have misconstrued the "device surrounding component" of claim 10 as being the "device-surrounding cage," as described in paragraph [0058] of the specification. However, paragraph [0058] of the specification clearly distinguishes the "device surrounding component" from the "device-surrounding cage."

An applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning(s). *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994). Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999).

Based on the foregoing, the Examiner's assertion that the lever of claim 10 cannot be "positioned on a side surface of the disk drive" is baseless. Figure 4A, as shown below

for convenience, shows lever 200 attached to hard drive 130 in a raised position, in accordance with one embodiment of the invention.

Paragraph [0056] of the specification states the following:

"In one embodiment of the invention, lever 200 is attached to hard drive 130 at
pivot pin 202. In other embodiments, pivot pin 202 is attached to device surrounding component 151 (see Figure 3A), or to top plate 121 (see Figure 2A). As can be appreciated, because lever 200 pivots around pivot pin 202 to cause horizontal movement of hard drive 130, pivot pin 202 is attached to hard drive 130, or to a structure integral with hard drive 130."

In accordance with the foregoing, the Applicant submits that there is ample and clear support in the specification for the lever 200 to be positioned on a side surface of the disk drive 130, as recited in claim 10. Additionally, the Applicant submits that the device surrounding component as described in the specification does not preclude positioning of the lever 200 on the side surface of the disk drive 130. Therefore, the specification supports all limitations of claim 10.

The Applicant submits that the subject matter of claim 10 was in fact described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention at the time the application was filed. Therefore, Applicant submits that the Examiner's rejection of claim 10 under 35 U.S.C. 112 is in error. The Board is respectfully requested to overturn the Examiner's rejection of claim 10 under 35 U.S.C. 112.

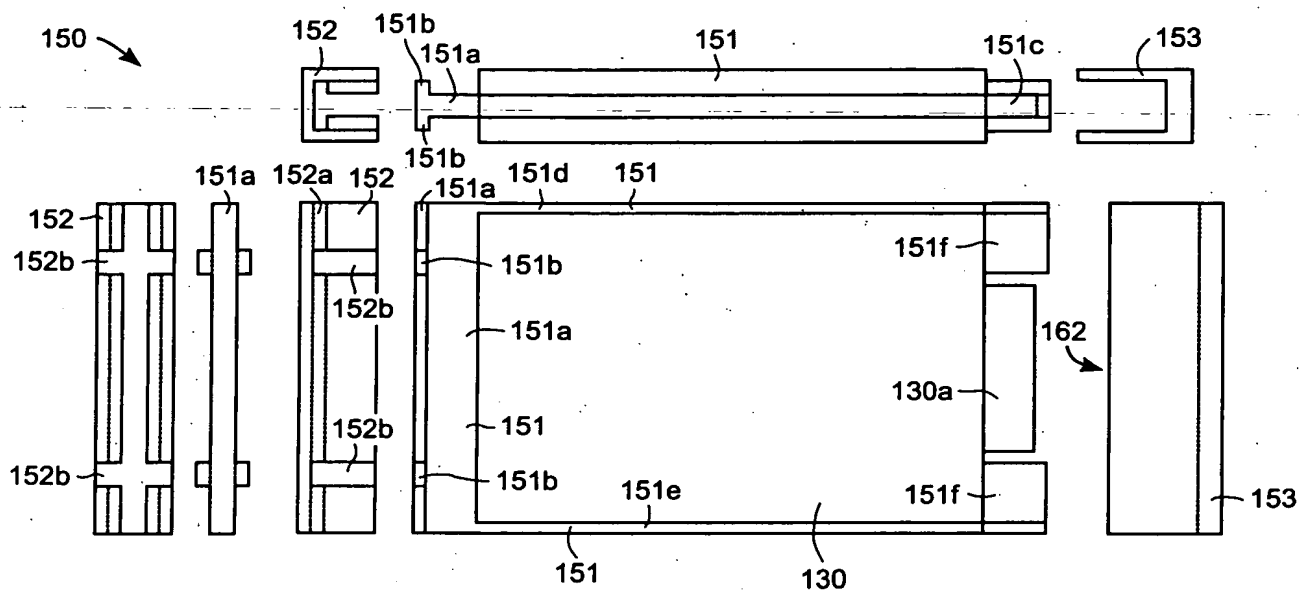


FIG. 3A

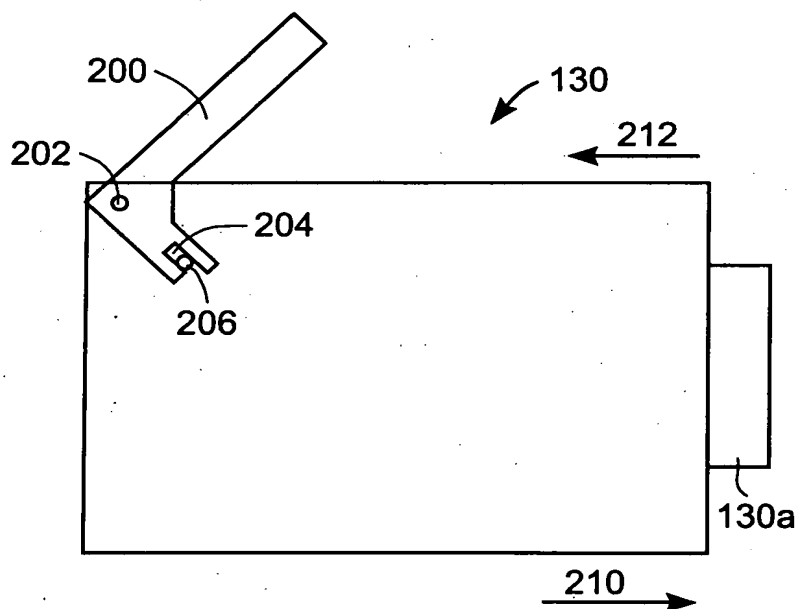


FIG. 4A

B. Rejections of claims 1-10, 12-13, and 15-16 under 35 U.S.C. 102(e)

Independent Claim 1

Claim 1 was rejected under 35 U.S.C. 102(e) as being anticipated by Roesner. The following clear errors in the Examiner's rejections are noted.

The bracket assembly of claim 1 is recited to include a top plate for attaching to the component, wherein the top plate includes a keyed tail portion. The bracket assembly of claim 1 is also recited to include a tail receptacle for receiving the keyed tail portion of the top plate. The tail receptacle is recited as being configured to the rear rail.

Roesner does not teach a top plate for attaching to the component, wherein the top plate includes a keyed tail portion, as recited in claim 1. Roesner discloses a drive carrier 12 having support members 40, 42, and 44. The Examiner has relied upon the support member 40 to teach the top plate of claim 1 for attaching to the component. Therefore, for claim 1 to be anticipated by Roesner, the support member 40 must include a keyed tail portion. The Examiner has relied upon the guide 70 to teach the keyed tail portion of the top plate of claim 1. However, the guide 70 is disclosed by Roesner as part of the support member 44, not the support member 40 (see paragraph [0018] and Figure 2B). Therefore, because Roesner does not teach the guide 70 as part of the support member 40, it follows that Roesner does not teach a top plate having a keyed tail portion, as recited in claim 1.

Roesner (paragraph [0015]) states the following:

"Support members 40, 42, and 44 may comprise separate and discrete components coupled together using fasteners or other conventional means. However, support members 40, 42, and 44 may also comprise an integrally formed structure."

The Examiner has effectively asserted that because support members 40, 42, and 44 of Roesner may comprise an integrally formed structure, some of support members 40,

42, and 44 can be considered as parts of other support members. However, this is not taught by Roesner. Although Roesner teaches that support members 40, 42, and 44 can form an integral structure, Roesner does not blur the distinction between the support members 40, 42, and 44, as representing separate components having respective functional responsibilities.

Additionally, it should be appreciated that because Roesner does not teach the top plate having the keyed tail portion, it follows that Roesner does not teach the features of claim 1 regarding a tail receptacle for receiving the keyed tail portion of the top plate. Furthermore, because Roesner does not teach the top plate having the keyed tail portion or the tail receptacle for receiving the keyed tail portion of the top plate, it follows that Roesner does not teach the features of claim 1 regarding a lever to provide leveraged motion which causes the keyed tail portion to be received into the tail receptacle.

It is well-established that the standard for lack of novelty (i.e., "anticipation") under 35 U.S.C. 102 is one of strict identity. To anticipate a claim for a patent, a single prior source must contain all its essential elements. *See, e.g., Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Additionally, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Also, for a claim to be anticipated under 35 U.S.C. 102, the elements in the prior art must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In view of the foregoing, the Applicant submits that Roesner fails to teach each and every feature of independent claim 1, as required for anticipation under 35 U.S.C. 102. Therefore, Applicant submits that the Examiner's rejection of claim 1 under 35 U.S.C. 102 is in error. The Board is respectfully requested to overturn the Examiner's rejection of claim 1 under 35 U.S.C. 102.

Independent Claim 10

Claim 10 was rejected under 35 U.S.C. 102(e) as being anticipated by Roesner. The following clear errors in the Examiner's rejections are noted.

With regard to claim 10, the bracket assembly is recited as including a lever to provide leveraged movement to the disk drive. Moreover, the lever is recited as being positioned on a side surface of the disk drive.

Roesner discloses a drive carrier 12 having an actuator 24, i.e., lever 24, attached thereto. Specifically, paragraph [0016] of Roesner discloses that actuator 24 is pivotally coupled to a front portion 50 of drive carrier 12. Roesner further discloses that actuator 24 may be pivotally coupled to support member 42 of the driver carrier 12 using a pin 52. Although Roesner teaches the actuator 24 as being positioned at an outer surface of the driver carrier 12, Roesner does not teach the actuator 24 as being positioned on a side surface of the disk drive 14, as required by claim 10.

The Examiner has asserted that claim 10 cannot be completely understood as written due to the supposed issues under 35 U.S.C. 112. As discussed above with regard to the rejection of claim 10 under 35 U.S.C. 112, the subject matter of claim 10 was in fact described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention at the time the application was filed.

The Applicant submits that all features of claim 10 are fully and clearly supported by the specification as originally filed. As discussed above with regard to the rejection of claim 10 under 35 U.S.C. 112, the Applicant submits that there is ample and clear support in the specification for the lever 200 to be positioned on a side surface of the disk drive 130, as recited in claim 10. Additionally, the Applicant submits that the device surrounding component as described in the specification does not preclude positioning of the lever 200 on the side surface of the disk drive 130. Therefore, the specification supports all limitations of claim 10.

Simply stated, the Examiner's assertion is incorrect with regard to the device surrounding component not being combinable with the lever, where the lever is positioned on the side surface of the disk drive. Additionally, the Examiner's assertion directly opposes the description of the device surrounding component as provided in the originally filed specification. Therefore, the Examiner's interpretation of claim 10 to mean that the lever was positioned on a side surface of the device surrounding component was not only incorrect, it was unnecessary based on the explicit definition of the device surrounding component in the specification.

Further with regard to claim 10, the Examiner has asserted that the support rail 82 of Roesner teaches both the forward mounting post and the rear mounting post recited in claim 10. The Applicant submits that it is not physically possible for the support rail 82 of Roesner to represent both the forward mounting post and the rear mounting post. The Applicant submits that Roesner does not teach a rear mounting post.

It is well-established that the standard for lack of novelty (i.e., "anticipation") under 35 U.S.C. 102 is one of strict identity. To anticipate a claim for a patent, a single prior source must contain all its essential elements. *See, e.g., Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). "A claim is

anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Additionally, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Also, for a claim to be anticipated under 35 U.S.C. 102, the elements in the prior art must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In view of the foregoing, the Applicant submits that Roesner fails to teach each and every feature of independent claim 10, as required for anticipation under 35 U.S.C. 102. Therefore, Applicant submits that the Examiner's rejection of claim 10 under 35 U.S.C. 102 is in error. The Board is respectfully requested to overturn the Examiner's rejection of claim 10 under 35 U.S.C. 102.

Dependent Claims 2-9, 12-13, and 15-16

Claims 2-9, 12-13, and 15-16 were rejected under 35 U.S.C. 102(e) as being anticipated by Roesner. The following clear errors in the Examiner's rejections are noted.

Because a dependent claim incorporates each and every feature of its independent claim, the Applicant submits that each of dependent claims 2-9, 12-13, and 15-16 is patentable with respect to the cited art of record for at least the same reasons provided for its respective independent claim.

Therefore, Applicant submits that the Examiner's rejections of dependent claims 2-9, 12-13, and 15-16 under 35 U.S.C. 102 are in error. The Board is respectfully requested to overturn the Examiner's rejections of claims 2-9, 12-13, and 15-16 under 35 U.S.C. 102.

C. Rejections of claims 11 and 14 under 35 U.S.C. 103(a)

Claims 11 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Roesner in view of Aoki. The following clear errors in the Examiner's rejections are noted.

Because a dependent claim incorporates each and every feature of its independent claim, the Applicant submits that each of dependent claims 11 and 14 is patentable with respect to the cited art of record for at least the same reasons provided for its respective independent claim.

Additionally, with regard to claim 11, the combination of Roesner and Aoki fails to teach T-slots formed in the rear mounting post such that when the lever provides leveraged movement in the second direction of motion, the device positioning key of the device surrounding component moves through the T-slots. The Examiner has asserted that Roesner teaches the rear mounting post, and Aoki teaches the T-slots formed in the rear mounting post.

As discussed above with regard to the rejection of claim 10 under 35 U.S.C. 102, Roesner does not teach the rear mounting post. Additionally, Aoki does not teach a rear mounting post as recited in claim 11. Therefore, at a minimum because the rear mounting post is not taught by either Roesner or Aoki, the combination of Roesner and Aoki fails to teach T-slots formed in the rear mounting post. Consequently, the combination of Roesner and Aoki fails to teach each and every feature of claim 11.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Notwithstanding the fact that the combination of Roesner and Aoki does not teach the rear mounting post of claim 11, the Applicant submits that there is no suggestion or motivation to have combined the teachings of Roesner and Aoki as suggested by the Examiner. While Aoki teaches a T-shaped slot in the rail 3, Aoki does not teach or suggest that the rail 3 represents a rear mounting post. Consequently, the Applicant submits that the references of Roesner and Aoki themselves do not provide a suggestion or motivation to combine the T-shaped slot characteristic of rail 3 of Aoki with any component of Roesner.

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. MPEP §2143.01 However, the level of ordinary skill in the art cannot be relied upon to provide the suggestion to combine references. *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999).

In view of the foregoing, the Applicant again submits that the Examiner's rejections of claims 11 and 14 under 35 U.S.C. 103 are in error. The Board is respectfully requested to overturn the Examiner's rejections of claims 11 and 14 under 35 U.S.C. 103.

In view of the foregoing, the Applicant submits that each of claims 1-16 is patentable. Therefore, the Applicant respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner's rejections of the claims on appeal.

Respectfully Submitted,
MARTINE PENILLA & GENCARELLA, LLP



Kenneth D. Wright
Reg. No. 53,795

MARTINE PENILLA & GENCARELLA, LLP
710 Lakeway Drive, Suite 200
Sunnyvale, California 94085
408.749.6900

VIII. CLAIMS APPENDIX

1. A component positioning and securing bracket assembly, comprising:

a front rail, a rear rail, and a bottom rail to define a front, a rear, and a bottom boundary of the component positioning and securing bracket assembly, the front rail, the rear rail, and the bottom rail defining a structure into which is received the component;

a top plate for attaching to the component, the top plate including a keyed tail portion;

a tail receptacle for receiving the keyed tail portion, the tail receptacle configured to the rear rail;

a nose receptacle portion of the front rail for receiving a nose portion of the top plate;

a component connector to connect to a port of the component; and

a lever to provide leveraged motion, the leveraged motion causing the keyed tail portion to be received into the tail receptacle to positively hold and rigidly support the component in place and effecting a connection of the port of the component and the component connector and securing the component in the component positioning and securing bracket,

wherein the component positioning and securing bracket assembly is in an array of a plurality of components.

2. The component positioning and securing bracket assembly of claim 1, wherein the array of a plurality of components is one array of a plurality of arrays in an array chassis.

3. The component positioning and securing bracket assembly of claim 1, wherein the component is a computer component.

~~4. The component positioning and securing bracket assembly of claim 3,~~
wherein the computer component is a hard drive.

5. The component positioning and securing bracket assembly of claim 2, wherein the component is a computer component and the plurality of arrays in the array chassis is a plurality of arrays of computer components in the array chassis of a computer system rack.

6. The component positioning and securing bracket assembly of claim 2, wherein when the leveraged motion provides horizontal motion to secure the component in the component positioning and securing bracket assembly within the one array of a plurality of arrays in an array chassis.

7. The component positioning and securing bracket assembly of claim 1, wherein the component connector is attached to the front rail and wherein the bottom rail defines a lower boundary of the component positioning and securing bracket assembly such that when the component is received in the structure defined by the front rail, the rear rail, and the bottom rail, the port of the component is aligned with the component connector.

8. The component positioning and securing bracket assembly of claim 1, wherein the component connector provides power to the component.

9. The component positioning and securing bracket assembly of claim 1, wherein the component connector provides power and data to the component.

10. In an array of a plurality of disk drive components, a disk drive positioning and securing bracket assembly, comprising:

a device surrounding component for holding a disk drive;

a forward mounting post attached to an array chassis;

a rear mounting post attached to the array chassis; and

a lever to provide leveraged movement to the disk drive, the lever positioned on a side surface of the disk drive to be located within the array of the plurality of disk drive components,

wherein the device surrounding component includes a device positioning key and forward tabs, the device positioning key and forward tabs configured to be received in the rear mounting post and in the forward mounting post such that the device surrounding component having the disk drive therein is received in the rear mounting post and in the forward mounting post in a first direction of motion, and the lever provides leveraged movement in a second direction of motion positioning the device positioning key into the forward tabs to secure the disk drive.

11. The disk drive positioning and securing bracket assembly of claim 10, further comprising:

a power and data connector disposed within the forward mounting post; and

T-slots formed in the rear mounting post,

wherein when the lever provides leveraged movement in the second direction of motion to secure the disk drive, the device positioning key moves through the T-slots and a power and data port of the disk drive mates with the power and data connector.

12. The disk drive positioning and securing bracket assembly of claim 10, wherein the array of a plurality of disk drive components is disposed within an array chassis having a plurality of arrays of disk drive components.

13. The disk drive positioning and securing bracket assembly of claim 10, wherein the rear mounting post includes a keyway for receiving the device positioning key in the first direction of motion.

14. The disk drive positioning and securing bracket assembly of claim 11, wherein when the lever provides leveraged movement to secure the disk drive, the forward tabs are disposed within the forward mounting post and adjacent to the power and data connector.

15. The disk drive positioning and securing bracket assembly of claim 10, wherein the disk drive positioning and securing bracket assembly is constructed of materials including hard plastic and stainless steel alloy.

16. The disk drive positioning and securing bracket assembly of claim 10, wherein the first direction of motion is a vertical direction of motion and the second direction of motion is a horizontal direction of motion.

IX. EVIDENCE APPENDIX

There is currently no evidence entered and relied upon in this Appeal.

~~**X. RELATED PROCEEDINGS APPENDIX**~~

There are currently no decisions rendered by a court or the Board in any proceeding identified in the Related Appeals and Interferences section.